



House of Representatives

General Assembly

File No. 492

February Session, 2000

Substitute House Bill No. 5106

House of Representatives, April 10, 2000

The Committee on Finance, Revenue and Bonding reported through REP. MCDONALD of the 148th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Low And Moderate Income Housing Tax Credits.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-395 of the general statutes, as amended by
2 section 33 of public act 99-173, is repealed and the following is
3 substituted in lieu thereof:

4 (a) As used in this section, (1) "business firm" means any business
5 entity authorized to do business in the state and subject to the
6 corporation business tax imposed under chapter 208, or any company
7 subject to a tax imposed under chapter 207, or any air carrier subject to
8 the air carriers tax imposed under chapter 209, or any railroad
9 company subject to the railroad companies tax imposed under chapter
10 210, or any regulated telecommunications service, express, telegraph,
11 cable, or community antenna television company subject to the
12 regulated telecommunications service, express, telegraph, cable, and

13 community antenna television companies tax imposed under chapter
14 211, or any utility company subject to the utility companies tax
15 imposed under chapter 212, and (2) "nonprofit corporation" means a
16 nonprofit corporation incorporated pursuant to chapter 602 or any
17 predecessor statutes thereto, having as one of its purposes the
18 construction, rehabilitation, ownership or operation of housing and
19 having articles of incorporation approved by the executive director of
20 the Connecticut Housing Finance Authority in accordance with
21 regulations adopted pursuant to section 8-79a or 8-84.

22 (b) The Commissioner of Revenue Services shall grant a credit
23 against any tax due under the provisions of chapter 207, 208, 209, 210,
24 211 or 212 in an amount equal to the amount specified by the
25 Connecticut Housing Finance Authority in any tax credit voucher
26 issued by said authority pursuant to subsection (c) of this section.

27 (c) The Connecticut Housing Finance Authority shall administer a
28 system of tax credit vouchers within the resources, requirements and
29 purposes of this section, for business firms making cash contributions
30 to housing programs developed, sponsored or managed by a nonprofit
31 corporation, as defined in subsection [(w) of section 8-39] (a) of this
32 section, which benefit low and moderate income persons or families
33 which have been approved prior to the date of any such cash
34 contribution by the authority. Such vouchers may be used as a credit
35 against any of the taxes to which such business firm is subject and
36 which are enumerated in subsection (b) of this section. For income
37 years commencing on or after January 1, 1998, to be eligible for
38 approval a housing program shall be scheduled for completion not
39 more than three years from the date of approval. Each program shall
40 submit to the authority quarterly progress reports and a final report
41 upon completion, in a manner and form prescribed by the authority. If
42 a program fails to be completed after three years, or at any time the
43 authority determines that a program is unlikely to be completed, the
44 authority may reclaim any remaining funds contributed by business

45 firms and reallocate such funds to another eligible program.

46 (d) No business firm shall receive a credit pursuant to both this
47 section and chapter 228a in relation to the same cash contribution.

48 (e) Nothing in this section shall be construed to prevent two or more
49 business firms from participating jointly in one or more programs
50 under the provisions of this section. Such joint programs shall be
51 submitted, and acted upon, as a single program by the business firms
52 involved.

53 [(f) The sum of all tax credit granted pursuant to the provisions of
54 this section shall not exceed seventy-five thousand dollars annually
55 per business firm and no]

56 (f) No tax credit shall be granted to any business firm for any
57 individual amount contributed of less than two hundred fifty dollars.

58 [(g) No tax credit shall be granted to any bank, bank and trust
59 company, insurance company, trust company, national bank, savings
60 association, or building and loan association or any other business
61 entity for activities that are a part of its normal course of business.]

62 [(h)] (g) Any tax credit not used in the period during which the cash
63 contribution was made may be carried forward or backward for the
64 five immediately succeeding or preceding income years until the full
65 credit has been allowed.

66 [(i)] (h) In no event shall the total amount of all tax credits allowed
67 to all business firms pursuant to the provisions of this section exceed
68 five million dollars in any one fiscal year.

69 (j) No tax credit shall be granted to any business firm unless such
70 firm furnishes proof to the Commissioner of Revenue Services that the
71 amount of funds expended for contributions for the support of
72 housing programs by such business firm is not less in the year for

73 which such credit is sought than the amount expended in the year
74 immediately preceding the year for which such credit is sought.]

75 [(k)] (i) No organization conducting a housing program or programs
76 eligible for funding with respect to which tax credits may be allowed
77 under this section shall be allowed to receive an aggregate amount of
78 such funding for any such program or programs in excess of four
79 hundred thousand dollars for any fiscal year.

80 [(l)] (j) Nothing in this section shall be construed to prevent a
81 business firm from making any cash contribution to a housing
82 program to which tax credits may be applied which cash contribution
83 may result in the business firm having a limited equity interest in the
84 program.

85 [(m)] (k) The Connecticut Housing Finance Authority, with the
86 approval of the Commissioner of Revenue Services, shall adopt written
87 procedures in accordance with section 1-121 to implement the
88 provisions of this section. Such procedures shall include provisions for
89 issuing tax credit vouchers for cash contributions to housing programs
90 based on a system of ranking housing programs. In establishing such
91 ranking system, the authority shall consider the following: (1) The
92 readiness of the project to be built; (2) use of the funds to build or
93 rehabilitate a specific housing project or to capitalize a revolving loan
94 fund providing low-cost loans for housing construction, repair or
95 rehabilitation to benefit persons of very low, low and moderate
96 income; (3) the extent the project will benefit families at or below
97 twenty-five per cent of the area median income and families with
98 incomes between twenty-five per cent and fifty per cent of the area
99 median income, as defined by the United States Department of
100 Housing and Urban Development; (4) evidence of the general
101 administrative capability of the nonprofit corporation to build or
102 rehabilitate housing; (5) evidence that any funds received by the
103 nonprofit corporation for which a voucher was issued were used to

104 accomplish the goals set forth in the application; and (6) with respect
105 to any income year commencing on or after January 1, 1998; [~~;~~ (6) use]
106 (A) Use of the funds to provide housing opportunities in urban areas
107 and the impact of such funds on neighborhood revitalization; and ~~[(7)]~~
108 (B) the extent to which tax credit funds are leveraged by other funds.

109 ~~[(n)]~~ (l) Vouchers issued or reserved by the Department of Housing
110 under the provisions of this section prior to July 1, 1995, shall be valid
111 on and after July 1, 1995, to the same extent as they would be valid
112 under the provisions of this section in effect on June 30, 1995.

113 ~~[(o)]~~ On or before October 1, 1995, the authority shall adopt written
114 procedures, in accordance with section 1-121, to implement the
115 provisions of this section.]

116 ~~[(p)]~~ (m) The credit which is sought by the business firm shall first
117 be claimed on the tax return for such business firm's income year
118 during which the cash contribution to which the tax credit voucher
119 relates was paid.

120 Sec. 2. Subsection (c) of section 12-217 of the general statutes, as
121 amended by section 1 of public act 99-83, is repealed and the following
122 is substituted in lieu thereof:

123 (c) (1) Notwithstanding the provisions of subsections (a) and (b) of
124 this section, "net income", in the case of an S corporation, means the
125 percentage of the nonseparately computed income or loss, as defined
126 in Section 1366(a)(2) of the Internal Revenue Code, of such S
127 corporation, without separate state adjustment pursuant to section
128 12-233 or 12-226a for the compensation of any officer or employee, to
129 which shall be added (A) any taxes imposed under the provisions of
130 this chapter which are paid or accrued in the income year and (B) any
131 taxes in any state of the United States or any political subdivision of
132 such state, or the District of Columbia, imposed on or measured by the
133 income or profits of a corporation which are paid or accrued in the

134 income year as provided in subdivision (2) of this subsection.

135 (2) For income years commencing prior to January 1, 1997, "net
136 income" means one hundred per cent of the amount computed under
137 subdivision (1) of this subsection; for income years commencing on or
138 after January 1, 1997, and prior to January 1, 1998, "net income" means
139 ninety per cent of the amount computed under subdivision (1) of this
140 subsection; for income years commencing on or after January 1, 1998,
141 and prior to January 1, 1999, "net income" means seventy-five per cent
142 of the amount computed under subdivision (1) of this subsection; for
143 income years commencing on or after January 1, 1999, and prior to
144 January 1, 2000, "net income" means fifty-five per cent of the amount
145 computed under subdivision (1) of this subsection; for income years
146 commencing on or after January 1, 2000, and prior to January 1, 2001,
147 "net income" means thirty per cent of the amount computed under
148 subdivision (1) of this subsection; for income years commencing on or
149 after January 1, 2001, net income of S corporations as computed under
150 subdivision (1) of this subsection shall not be subject to the tax under
151 this chapter. Any S corporation subject to the tax on net income as
152 provided in this section shall be eligible for any credit against the tax
153 otherwise available to taxpayers under this chapter only to the extent
154 and in the same percentage as net income of such S corporation is
155 subject to taxation under this chapter, except that any S corporation
156 with an income year commencing on or after January 1, 1999, but
157 before December 31, 2000, shall be eligible for the entire credit
158 available under sections 8-395, as amended by section 1 of this act, 12-
159 633, 12-634, 12-635 and 12-635a.

160 Sec. 3. This act shall take effect July 1, 2000.

HSG Committee Vote: Yea 11 Nay 0 JFS C/R PD

PD Committee Vote: Yea 16 Nay 0 JFS C/R FIN

FIN **Committee Vote:** Yea 45 Nay 2 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Department of Revenue Services

Municipal Impact: None

Explanation**State Impact:**

Since the amount claimed, based on the most recent data available was about \$1,000,000, and since the annual amount of credits the Connecticut Housing Finance Authority can issue under current law is capped at \$5 million; there is no fiscal impact to the state by removing the ceiling on the housing tax credits that business can qualify for under the existing low- and moderate-income housing program.

OLR Bill Analysis

sHB 5106

AN ACT CONCERNING LOW AND MODERATE INCOME HOUSING TAX CREDITS.**SUMMARY:**

This bill removes the ceiling on housing tax credits that businesses can qualify for under the low- and moderate-income housing tax program. Currently, individual businesses can qualify for a maximum tax credit of \$75,000 per year. Businesses receive tax credit vouchers from the Connecticut Housing Finance Authority (CHFA) in exchange for making contributions to nonprofit developers of low- and moderate-income housing. The bill maintains the annual \$5 million limit for total credits issued through CHFA.

The bill specifies only cash contributions qualify for tax credits. Therefore, in-kind contributions are not eligible. It removes the requirement that a business must at least match its previous year's contribution to receive a credit in a second year.

The bill also allows subchapter S corporations to claim 100% of the housing tax credit for income years 1999 and 2000, even though their tax liability is being phased out. Under current law, S corporations can only claim credit equal to the percentage that their net income is taxable. For income year 2000, 30% of their net income is taxable; therefore they can only claim 30% of their contribution for a tax credit. (Beginning in income year 2001, S corporations will not be taxed on their net income.)

The bill eliminates the prohibition on banks, insurance companies, savings associations, building and loan associations, or any other business from qualifying for the tax credit if the contribution is part of their normal course of business.

Finally, it specifies that the CHFA executive director must approve a nonprofit corporation's articles of incorporation before it can receive a

donation for which the donor can earn a credit. This gives CHFA, the agency that issues the tax credit vouchers, the authority to name nonprofits approved to receive tax-credit-eligible contributions. The bill requires the approval to be in accordance with existing Department of Economic and Community Development regulations.

EFFECTIVE DATE: July 1, 2000

BACKGROUND

Subchapter S Corporations

Subchapter S corporations are small corporations that elect to be taxed as partnerships to receive federal income tax breaks. The number of shareholders is limited and individual shareholders enjoy the benefits under state law of limited corporate liability.

State law allows subchapter S corporations to claim 100% of the tax credit under the Neighborhood Assistance Act instead of 55% in 1999 and 30% in 2000.

COMMITTEE ACTION

Select Committee on Housing

Joint Favorable Substitute Change of Reference

Yea 11 Nay 0

Planning and Development Committee

Joint Favorable Substitute Change of Reference

Yea 16 Nay 0

Finance, Revenue and Bonding Committee

Joint Favorable Substitute to the Floor

Yea 45 Nay 2